

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

v.

12 DAVID W. KUBALA,

13 Defendant.

CASE NO. CR20-0183-JCC

ORDER

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15 This matter comes before the Court on Defendant's unopposed Motion to Seal (Dkt. No.
16 39) an exhibit to his sentencing memorandum (Dkt. No. 40).

17 The First Amendment protects the public's right of access to criminal trials. *See, e.g.,*
18 *Globe Newspaper Co. v. Super. Ct. for Norfolk Cnty.*, 457 U.S. 596, 606 (1982). The public also
19 has a common law right to inspect and copy public records, including those from judicial
20 proceedings. *See Nixon v. Warner Commc'ns*, 435 U.S. 589, 597 (1978). But these rights are not
21 absolute. They must yield when (1) sealing a document serves a compelling interest, (2) that is
22 substantially likely to be harmed if the document is not sealed, and (3) there are no less
23 restrictive alternatives for protecting the interest. *See United States v. Doe*, 870 F.3d 991, 998
24 (9th Cir. 2017).

25 The exhibit at issue (Dkt. No. 40) contains a confidential psychological assessment and
26 supporting materials. Keeping it under seal serves a compelling interest that is likely to be

harmed if it is not sealed, and no less restrictive alternatives would protect the interest. Accordingly, the Court finds good cause and the motion to seal (Dkt. No. 39) is GRANTED. The Clerk is DIRECTED to maintain Docket Number 40 under seal.

DATED this 9th day of December 2022.

Joh C Coyle

John C. Coughenour
UNITED STATES DISTRICT JUDGE

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